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From: Morning Agriculture
Sent: Wed 8/12/2015 2:01:45 PM
Subject: Morning Agriculture: Southern states on guard for bird flu, part two - Farmers angry with EPA over a different water issue

By Chase Purdy

With help from Jenny Hopkinson, Jason Huffman and Helena Bottemiller Evich

SOUTHERN STATES ON GUARD FOR BIRD FLU, PART TWO: Washington might be in the throes of an August recess, but agriculture officials and lawmakers representing Southern states are busy preparing for what could be round two of avian influenza. A countless number of birds could be on their way down the three southerly migratory paths as soon as the last week of August, bringing with them the same highly pathogenic virus already responsible for killing more than 48 million chickens and turkeys in the Midwest, causing major carnage for egg laying hen farmers in particular.

This time it's the U.S. broiler industry that's worried. Five Southern states along the migratory paths - Georgia, Arkansas, North Carolina, Alabama and Mississippi - are responsible for about \$17.9 billion of the broiler industry's total \$32 billion in annual production. If Georgia - which produced 1.32 billion broiler birds in 2013 - were its own standalone country, it would have the seventh-largest broiler market in the world, agriculture officials tell MA.

Pros should keep an eye out for a story by yours truly. We'll give you the latest on what state agriculture officials and large poultry processors are doing to prepare. You'll also hear from key lawmakers who sit on the House and Senate Agriculture committees on what they're doing to find ways to ensure farmers have the support they need in the event of more outbreaks.

HAPPY WEDNESDAY, AUG. 12! Welcome to Morning Ag, where your host is interested - but not shaking with excitement - about the announcement that rapper Jay-Z now has his own all-pinot Champagne worth \$760 a bottle: <http://bloom.bg/1IEJ3B2> You know the deal: Thoughts, news, tips? Send them to cpurdy@politico.com and [@chasepurdy](https://twitter.com/chasepurdy). Follow the whole team [@Morning_Ag](https://twitter.com/Morning_Ag).

FARMERS ANGRY WITH EPA OVER A DIFFERENT WATER ISSUE: Hundreds of farmers in Colorado, New Mexico and Utah are expressing frustration this week over an EPA accident that has contaminated the Animas and San Juan rivers, threatening their fields and livestock, Farm Bureau officials in the affected states tell MA. For once, it's not the Waters of the U.S. rule that the farmers are angry with the EPA about.

EPA employees were working at a long-abandoned gold mine in Colorado when they breached a wall and released 3 million gallons of wastewater that contained lead, arsenic and other heavy metals. The deluge turned the normally blue Animas River a sickly yellow, and the contamination has spread to other streams, including the connected San Juan River. EPA Administrator Gina McCarthy, who has apologized for the accident, is set today to visit Durango, Colo., where the EPA has set up a command center, Pro Energy's Alex Guillén reports.

She will also travel to Farmington, N.M., which is downriver.

"They say it's an accident," Jack Harris, who owns a small farm with 60 goats and 20 horses, in New Mexico, told MA. The EPA employees "were up there screwing around in that mine. If they didn't have any more experience than that, they shouldn't have been there." The company that provides Harris' farm water from the river managed to shut off valves before the contamination could spread into his ditches. He believes he can continue to water his animals from his domestic well for about a week. After that, he's not sure what he will do.

NAVAJO NATION READY TO FILE SUIT: While many in the agriculture industry are counting on the federal government to truck in water to help with the disaster, Navajo Nation President Russell Begaye announced over the weekend that he intends to file a lawsuit against the EPA. The Navajo Nation extends into the states of Utah, Arizona and New Mexico, covering more than 27,000 square miles, and depends on the contaminated rivers as a supply of drinking water and irrigation for some farms.

Out of fear that it will be a long time before the river water will be safe, Duane "Chili" Yazzie, president of the Navajo Nation's Shiprock chapter and a farmer himself, reportedly told Native News Online that the chapter's board has made the decision to keep irrigation closed for the remainder of the season. "You can't describe the extent of hurt that we've been thrown into," he said. Read about the Shiprock decision here: <http://bit.ly/1DIaQSp>

FEW OPTIONS FOR EPA ON CHLORPYRIFOS: The clock is now ticking on the EPA's decision on how to respond to a petition from environmentalists to effectively ban food uses of chlorpyrifos, an insecticide used to fight bugs on a variety of crops, and the agency is running out of options. The U.S. Court of Appeals for the 9th Circuit ruled in no uncertain terms on Monday that the EPA has taken far too long to respond to the 2007 petition from Pesticide Action Network North America asking it declare that there is no allowable level for residue - better known as a tolerance - of the chemical on food. The court has given the EPA until Oct. 31 to issue its response, and at this point there are largely just three things the agency could come back with:

1. Deny the petition: As with any petition, this is possible, albeit highly unlikely. The agency is currently in a mandated review of the pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, and could decide that it wants to let that process, which is favored by industry, play out before making a decision on anything having to do with the chemical. Dow AgroSciences, which is one maker of the chemical, told MA in a statement that it is confident with the safety of chlorpyrifos when used appropriately and plans to back the FIFRA registration review process. However, in a June status report to the court, the EPA said it plans to "partially grant" the petition after finding that there are risks from the chemical's current use to human health. Given that disclosure, deciding not to act is unlikely to sit well with environmentalists or the court.

2. Propose to revoke the tolerances: If MA were a betting publication, this is where our money would go. In issuing a proposal, the agency would be taking steps to "partially grant" the petition as it told the court it would while buying more time to work with industry to develop mitigation

measures that could prevent the need to revoke the tolerances. Such a move would track with a lot of the statements the EPA has made on the issue.

3. Revoke the tolerances: Finally, the EPA could fully grant the petition and directly revoke the tolerances. But going this route would incur considerable pushback from agriculture and pesticide groups. There was roughly 6 million pounds of chlorpyrifos used to control insects on a variety of crops in 2012, the latest year available from the U.S. Geological Survey, most of which was on soybeans, orchards and grapes. That was down from about 13 million pounds in 1994. The insecticide is used on everything from row crops to almonds to citrus, where it has been found to be effective in certain situations at controlling the Asian Citrus Psyllid, which spreads citrus greening disease. So a lot of groups are interested in keeping it on the market. The ruling is here: <http://politico.pro/1P4MTFx>

THE WILDCARD: Will the EPA appeal? The agency has certainly not been sitting around and twiddling its thumbs when it comes to chlorpyrifos, and has plenty of actions to point to should it seek review of the 9th Circuit's decision. An EPA spokeswoman tells MA that the agency "is reviewing the decision" with its Department of Justice lawyers.

A REFRESHER ON CHLORPYRIFOS: The commonly used insecticide inhibits the creation of an enzyme in the liver that regulates the nervous system. It is most heavily used across the Midwest as well as in parts of California, according to USGS. Use of the insecticide has long been on the decline due in part to concerns that it is contaminating drinking water supplies and causing developmental problems in children. The EPA was supposed to finish its review of the product by this year, though it is now potentially years behind that deadline. USGS data on chlorpyrifos' use is here: <http://on.doi.gov/1TmPi4G> Dow has a handy primer on where the registration review is here: <http://bit.ly/1EISAcS>

FIVE GAO EMPLOYEES INDICTED FOR SCHOOL MEAL FRAUD: Five Government Accountability Office employees have been indicted for allegedly falsifying their income on applications to receive reduced-price school meals, the Maryland State's Attorney's office in Prince George's County announced Tuesday. The charges came after the GAO discovered that some of its employees and the spouse of an employee were receiving subsidies through the National School Lunch Program during an agency investigation into the program, the state prosecutors say. The alleged fraud cost the government more than \$13,000 over four years. Last year, GAO issued a report recommending that the USDA do more to ensure legitimate access to school meal benefits: <http://1.usa.gov/1Emfhx0>

USDA ADVISORY PANEL TO TALK SALMONELLA IN POULTRY, E. COLI: The USDA's National Advisory Committee on Microbiological Criteria for Foods and its subcommittees will talk about "effective salmonella control strategies for poultry and virulence factors" and "attributes that define food-borne shiga-toxin producing E. coli as severe human pathogens" when it meets in Washington, D.C., Sept. 9-11, according to a notice the USDA sent to the Federal Register. The full committee will meet at the Residence Inn by Marriott, while the subcommittee is set to meet at the Patriot's Plaza III. Read more about the meetings here: <http://bit.ly/1WfWheS>

MA'S INSTANT OATS:

- Arkansas town aims to create a K-12 agriculture academy: <http://bit.ly/1IJ2KWj>

- The New York Times coverage of Coca-Cola-backed scientists was unfair and overly simplistic, ConscienHealth argues: <http://bit.ly/1DLokfX>

THAT'S ALL FOR MA! See you again soon! In the meantime, drop your host and the rest of the team a line: btomson@politico.com and [@billtomson4](https://twitter.com/billtomson4); jhopkinson@politico.com and [@jennyhops](https://twitter.com/jennyhops); cpurdy@politico.com and [@chasepurdy](https://twitter.com/chasepurdy); hbottemiller@politico.com and [@hbottemiller](https://twitter.com/hbottemiller); mkorade@politico.com and [@mjkorade](https://twitter.com/mjkorade); and jhuffman@politico.com and [@jsonhuffman](https://twitter.com/jsonhuffman). You can also follow [@POLITICOPro](https://twitter.com/POLITICOPro) and [@Morning_Ag](https://twitter.com/Morning_Ag) on Twitter.

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